In the High Court Uttaranchal, at Nainital.

Civil Writ Petition No. 1167 (M/B)/2004

Mahendra Prasad Joshi …. Petitioner

Versus

Secretary, Irrigation Department, Uttaranchal
Dehradun and 5 others ….. Respondents.

Sri M.C. Pant, learned counsel for the petitioner.
Sri S.K. Upadhyaya, learned B.H. for respondents.

Date: 29th November, 2004

Coram: Hon'ble Mr. Justice Irshad Hussain, J.
Hon'ble Mr. Justice B.S. Verma, J.

P.C.:

Heard Sri M.S. Pant, learned counsel for the petitioner and Sri K.P. Upadhyaya, learned Brief Holder for the respondents.

2- On facts and law the case is covered by the judgment of this Court delivered on 14-1-2004 in W.P. No. 1235/2002(S/B) and connected matters. Learned Brief Holder stated that a special appeal is pending against the judgment dated 14-1-2004 passed in W.P. No. 1235/2002 (S/B) and connected matters and that an interim order had been passed in the special appeal. The order passed is to the effect that in case the impugned judgment is set aside, the employees shall refund the excess amount paid to them in compliance of the order of the court. Considering the statement made the present writ petition may be disposed of with the similar direction.

3- The writ petition is finally disposed of with the direction that the respondents shall pay the salary to the petitioner ignoring the ceiling prescribed. However, if the special is allowed against the judgment dated 14.1.2004 passed in W.P. 1235/2002(S/B) and connected matters, the excess amount received by the petitioner shall be refunded to the department.

(B.S.Verma, J.) **(Irshad Hussain, J.)**

ISB